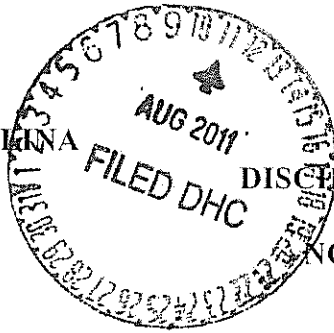


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
11 DHC 9

THE NORTH CAROLINA STATE BAR,  
Plaintiff,

vs.

MOTIONS, AFFIRMATIVE  
DEFENSES AND ANSWER  
TO AMENDED COMPLAINT

CLYDE GARY TRIGGS, Attorney,  
Defendant.

The Defendant moving, answering and by way of Affirmative Defenses responds to the Amended Complaint as follows:

**I.**

The Plaintiff's previously filed an original Complaint to which motions, answer and affirmative defenses were filed, copies of which appear of record. The Motions, Answer and Affirmative Defense filed in response to the original complaint are incorporated herein by reference as if fully set forth herein.

**II.**

The Amended Complaint as filed by the Plaintiff alleges two additional causes of action in paragraphs 129 through 148. As to the newly stated causes of action the previously asserted Affirmative Defenses and Motions are reasserted herein by reference.

**III.**  
**ANSWER**

Without waving the foregoing Motion to Dismiss and Affirmative Defenses by way of answer the Defendant says and alleges as follows:

1. Paragraphs 1 through 127 are admitted to the extent previously admitted and denied to the extent denied. All Motions and Affirmative Defenses are

reasserted herein by reference.

Paragraph 129 is admitted.

2. Paragraph 130 is admitted to the extent that an initial retainer of Three Thousand Five Hundred Dollars was set and a fee contract entered into with Mr. Brown.
3. Paragraph 131 is admitted to the extent that appoints were set up and that phone conferences did take place.
4. Paragraph 132 is denied for the lack of sufficient information it is respectfully contended that upon information and belief, messages left for the Defendant were returned.
5. Paragraph 133 is admitted to the extent that the Defendant provided his mobile number to Mr. Brown and Ms. Knox; however, it is denied that they were unable to reach him or that he failed to return their call.
6. Paragraph 134 is admitted.
7. Paragraph 135 is admitted.
8. Paragraph 136 is admitted.
9. Paragraph 137 is admitted to the extent that due to the death of Mr. Brown and a lack of information as to where the refund should be sent the Defendant did not issue the refund. By way of affirmative defense it is alleged that the Defendant contacted Ms. Luella C. Crane, Director of the Fee Dispute Resolution Program, to request information about what should be done regarding the payment since Mr. Brown had died and given the fact that Ms. Knox was not his wife, which can easily be substantiated by Ms. Crane. Ms. Crane was not aware as to who the funds should be sent to nor was any additional information ever sent to the Defendant regarding this matter.
10. Paragraph 138 is admitted to the extent that Mr. Brown died; however, the Defendant was not aware that Ms. Knox became the Executrix of the Estate.
11. Paragraph 139 is denied for lack of sufficient information.

12. By way of Affirmative Defense the previous response together with all information contained therein filed response to this grievance originally is incorporated herein by reference is fully set forth herein.
13. It is further respectfully contended that at no time did the Defendant violate any of the Rules of Professional Conduct nor act in an improper fashion given the particular circumstances of this case.
14. Paragraph 140 is admitted to the extent previously admitted and denied previously denied all Affirmative Defenses and Motions are reasserted herein by reference.
15. Paragraph 141 through 145 are admitted.
16. Paragraph 146 is admitted to the extent that due to extenuating circumstances within the office amounting to excusable neglect. The appeal was not perfected within the original time frame established by the Rules of Appellate procedure,
17. Paragraph 147 is admitted to the extent that an Order dismissing the appeal was entered on January 13, 2010.
18. Paragraph 148 is admitted to the extent by was of Affirmative Defense the previous response filed together with all attachments in the original grievance are incorporated herein by reference as if fully set forth herein.
19. That the Defendant has filed in a timely fashion a brief on behalf of the Defendant, a copy of which is attached and has received several letters from Ms. Estes praising the Defendant and his staff for the excellent job that they have done, copies of which are also attached.
20. It is respectfully contended that the Defendant did not intentionally violate the Rules of Professional conduct and upon determining that problems had occurred and promptly notified the Defendant and her representative of the problems and thereafter took proper corrective measures to perfect the appeal and proceed with the briefing of the matter which is presently before the Court for determination. It is further respectfully contended that the decision by the Bar to file a grievance is selective enforcement given the fact that upon information and belief other similar instances have occurred which have not resulted in a grievance being filed by the bar particularly in circumstances where the Defendant is fully satisfied and is kept apprized of the situation.

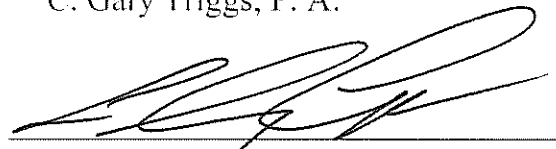
**WHEREFORE** the Defendant respectfully prays the Court as follows:

1. That no disciplinary action be taken against the Defendant.
2. That no costs be taxed against the Defendant.
3. For such other and further relief as the Court shall deem appropriate.

THIS the 8<sup>th</sup> August, 2011.

C. Gary Triggs, P. A.

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to read 'C. Gary Triggs', is written over a horizontal line.

C. Gary Triggs  
NCSB# 5865  
P O Box 305  
302 South Center St.  
Hildebran, NC 28637  
828-397-2010

## CERTIFICATE OF SERVICE

The undersigned attorney does hereby certify that a copy of the foregoing *Motions, Affirmative Defenses and Answer to Amended Complaint* was duly served upon opposing counsel this day in the following manner:

\_\_\_\_\_ By personally hand delivering a copy of the same to him or to one of his employees at his office; or

\_\_\_\_\_ By facsimile transmission to:

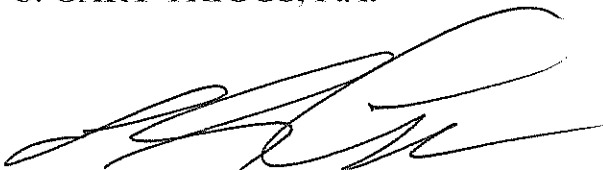
  X   By depositing a copy of the same in the United States mail, first class, postage prepaid, addressed to him/her as follows:

Barry S. McNeill  
Deputy Counsel  
State Bar Number 8887  
North Carolina State Bar  
P. O. Box 25908  
Raleigh, NC 27611

This the 8<sup>th</sup> day of August, 2011.

**C. GARY TRIGGS, P.A.**

By: \_\_\_\_\_

  
C. Gary Triggs  
North Carolina State Bar Number 5865  
Post Office Box 305  
302 South Center Street  
Hildebran North Carolina 28637  
Telephone: (828) 397-2010

No. COA11-408

TWENTY-FOURTH DISTRICT

\*\*\*\*\*  
NORTH CAROLINA COURT OF APPEALS  
\*\*\*\*\*

STATE OF NORTH CAROLINA,	)	
Appellee,	)	
	)	
vs.	)	From Avery County
	)	No. 05 CRS 50421
GLORIA HUGHES ESTES,	)	
Appellant	)	

\*\*\*\*\*  
DEFENDANT/APPELLANT'S BRIEF  
\*\*\*\*\*



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NORTH CAROLINA COURT OF APPEALS  
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STATE OF NORTH CAROLINA,           )  
    Appellee,                        )  
                                      )  
    vs.                                )     From Avery County  
                                      )     No. 05 CRS 50421  
GLORIA HUGHES ESTES,                )  
    Appellant                        )

\*\*\*\*\*  
DEFENDANT/APPELLANT'S BRIEF  
\*\*\*\*\*

QUESTIONS PRESENTED

1. DID THE TRIAL COURT COMMIT PREJUDICIAL ERROR BY ALLOWING HIGHLY PREJUDICIAL EVIDENCE IN THE FORM OF TESTIMONY AND EXHIBITS TO BE PRESENTED TO THE JURY OVER DEFENDANT'S OBJECTION?
2. DID THE TRIAL COURT COMMIT PREJUDICIAL ERROR IN DENYING DEFENDANT'S MOTIONS TO DISMISS ALL CHARGES AGAINST THE DEFENDANT AT THE CLOSE OF THE STATE'S CASE AND AT THE CLOSE OF ALL EVIDENCE OR IN THE ALTERNATIVE, IN FAILING TO GRANT A MISTRIAL?
3. DID THE TRIAL COURT COMMIT PREJUDICIAL ERROR BY IMPROPERLY RESPONDING TO QUESTIONS AND REQUESTS FOR EXHIBITS FROM THE JURY?
4. DID THE TRIAL COURT COMMIT PREJUDICIAL ERROR BY FAILING TO GRANT DEFENDANT/APPELLANT'S MOTION TO SET ASIDE THE VERDICT OF THE JURY, MOTION FOR A NEW TRIAL AND MOTION FOR APPROPRIATE RELIEF?

STATEMENT OF CASE

The Defendant, Gloria Hughes Estes, was arrested on June 17, 2005 and charged with the murder of Samuel Joe Roberson, on June 9, 2005 in violation of N.C.G.S. § 14-17. (R.pp. 15-16) The Defendant

filed an Affidavit of Indigency on June 13, 2005. (R.p.21) and the Court appointed Garland Baker, to represent the Defendant. (R.p. 23) The, Defendant had a first appearance before the Honorable Kyle Austin on June 17, 2005. (R.p. 20) An initial bond was set in the amount of \$250,000.00 on June 10, 2005. (R.p.19) An indictment for murder was on July 17, 2005. (R.p. 25)

A search warrant was issued by the Honorable Dale Buchanan, Magistrate on June 9, 2005 authorizing the search of the Defendant's premises. (R. pp. 7-11) An Inventory of Property Seized during the search was filed on June 19, 2005. A second search warrant was issued by the Honorable Steven Clawson, Magistrate Judge on June 14, 2005. (R.p. 22) A third search warrant together with attachments was issued by the District Court Judge on July 15, 2005. (R.pp. 28-37) Inventories of seized property were filed pursuant to the second and third search warrants on June 16, 2005 (R.p.38) and July 15, 2005. (R.p. 39) The Defendant through counsel filed a request for Voluntary Discovery on July 13, 2005. (R.pp. 26-27) The State filed a Voluntary Response to Discovery and Request for Voluntary Discovery on July 10, 2005. (R.pp. 40-42)

A Motion and Order committing the Defendant to Dorothea Dix for Examination on Capacity to Proceed to Trial was filed on September 8, 2005. (R. pp. 44-45) A Safekeeping Order was entered on November 10, 2005. (R. p. 46) The Defendant through Counsel filed a Motion to Reduce Bond on November 16, 2005 (R.pp. 47-49) and on that date a Safekeeping Order was entered. (R.p. 50) A Motion to Reveal Deals or Concessions was filed by Defendant's counsel on January 25, 2006. (R. pp. 51-54) A Petition for Release of Medical Records of the Defendant was filed on February 7, 2006. (R. pp. 56-57) An Order was entered requiring the release of medical records on February 7, 2006. (R.p. 55) The Defendant moved to have her Court appointed

counsel replaced and thereafter an Order was entered by the Honorable Phillip Ginn, on April 26, 2006 removing Garland Baker as counsel for record for the Defendant. (R. pp. 58-59) An Assignment of Counsel by the Office of Indigent Defense Services and First Degree Murder Cases at the Trial Level was filed on May 11, 2006 appointing Macon Clark of the Caldwell County Bar as counsel for the Defendant. (R. p. 60) On September 13, 2006 Defendant's counsel Macon A. Clark filed a Motion to Withdraw as counsel of record and thereafter an Order was entered by the Honorable James Baker, allowing Macon A. Clark, to withdraw as attorney of record. (R. pp. 66-67) C. Gary Triggs, of the Burke County Bar filed a Notice of Representation of the Defendant on September 14, 2006. (R. pp. 68-69) A fourth Search Warrant was issued by the Honorable Frankie Smith, Magistrate Judge on February 22, 2007 together with attached affidavits. (R. pp. 72-75) The Defendant through Counsel moved the Court for a Change of Venue and thereafter an Order changing venue was entered by the Honorable James L. Baker, Senior Resident Superior Court Judge which was announced in open Court on March 5, 2007 and the Order filed on March 15, 2007. (R. p. 76) The Defendant through counsel filed the Notice for Statutory Defenses on December 20, 2007. (R. pp. 78-79) The Defendant through counsel filed a Motion to Suppress all statements made by the Defendant to Law Enforcement and/or to fellow inmates. (R. pp. 80-81) The Defendant through Counsel thereafter filed a Motion in Limine. (R. pp. 82-84) This matter came on for trial at the December 31, 2007 session of Mitchell County Superior Court before the Honorable Forrest D. Bridges, Superior Court Judge presiding. The Defendant was tried on the charge of First Degree Non-Capital Murder in violation of G.S. § 14-17 and the jury returned a verdict of guilty to First Degree Non-Capital Murder on January 11, 2008. (R. p. 86) On January 11, 2008 the Court entered a Judgment and

Commitment sentencing the Defendant as a Class A Felon to life Imprisonment without parole. (R. p. 87) The Defendant/Appellant filed timely Notice of Appeal to the North Court of Appeals on January 14. (R.pp. 88-89) The Defendant through Counsel requested a copy of the transcript of Janice E. Buchanan, official Court Reporter on February 29, and a copy of the transcript was mailed to Defendant's Counsel on May 2, 2008, (R.p. 90) Gerald W. Wilson, District Attorney for the 24, District filed a Motion to Dismiss Defendant's Appeal on September 29, 2009 which was filed on October 2, 2009. (R.pp. 91-92) The Motion to Dismiss Appeal came on for hearing before the Honorable James U. Downs, Superior Court Judge at the January 11, 2010 session of Criminal Superior Court in Avery County, and an Order was entered dismissing the Defendant's appeal on January 13, 2010. (R. pp. 93-94

The Defendant through Counsel filed a Petition for a Writ of Certiorari together with attached affidavits. (R. pp. 90-122) The State filed a response to the Petition for a Writ of Certiorari. (R. pp. 123-125) An Order was entered by the Court of Appeals granting the Petition filed by the Defendant on January 18, 2011. (R.p. 126) The Proposed Record on Appeal was timely served upon Jerry Wilson, District Attorney and Derrick Mertz, Assistant Attorney General on February 22, 2011. (R.pp. 142-143) The Certificate of Service of the Settled Record on Appeal was filed on Jerry Wilson, District Attorney and Derrick C. Mertz, Assistant Attorney General on April 1st, 2011. (R.pp. 144-145) The stipulation of the Settled Record on Appeal was filed on April 1, 2011. (R. p. 146) the Settled Record on Appeal was filed by the Clerk of the Court of Appeals on April 4, 2011. The Defendant through Counsel filed a Motion for Extension to file Defendant/Appellant's Brief on May 3, 2011. An Order was entered extending the time for the filing of Defendant/ Appellant's

Brief to and including June 6, 2011. This Brief is filed within the extended time allowed for the filing to the Defendant/Appellant's Brief.

STATEMENT OF FACTS

The conviction from which the Defendant Appeals arose out of an incident alleged to have occurred on June 9, 2005 (R.p.15) at a residence located at 528 West Brewer Road, Newland, North Carolina. (R.p. 15; T. Vol. 1 p. 137)

The State called James Don Roberson, brother of the deceased, who testified that for approximately four years the deceased resided at 528 West Brewer Road, Newland, North Carolina (T. Vol. 1 pp. 137-138). Mr. Roberson testified that on June 7, 2005 he went to the residence where his brother resided and saw the Defendant at the residence. He had known the Defendant since the early sixty's. She was the former sister-in-law of the deceased (T. Vol. 1 pp. 141-142) He went to the home on the June 7, and spoke with the Defendant and his brother, who were both intoxicated. He testified that the inside of the trailer was "deplorable". (T. Vol. 1 pp. 143-144) He advised both of them that if they intended to stay there they needed to keep the place clean or find a place to live. The next morning he got a call between 6:30 am and 7 am from the Defendant who advised him that she had found the deceased out on the porch and that he was cold and looked like he had been hit in the head. Mr. Roberson testified that he asked her "is he alright?" and she responded that he was cold. He told the Defendant to call 911. (T. Vol. 1 pp 148-149)

On cross examination, Mr. Roberson testified that his brother had been an alcoholic for forty years and had degenerated to the point that he was drinking Listerine or other over the counter products that contained alcohol. The alcoholism of the deceased was

way past severe. (T. Vol. 1 p. 150) Not long before his death the deceased had fallen and hurt his hip requiring hospitalization and in the past he had fallen hit his head and chest requiring him to be hospitalized. The deceased falling and injuring himself while under the influence was not unusual. (T. Vol. 1 p. 151) Approximately a week before his death the Defendant had fallen into the river near the trailer and hit his head, his sides and arms. (T. Vol. 1 p. 159) He testified that it was just a matter of time until he got a call that his brother was dead. (T. Vol. 1 pp. 159-160)

The State called Jane Isenhour who testified that the deceased was her nephew and she knew the Defendant (T. Vol. 1 pp. 173-174) She did not recall speaking to investigators on June 10, 2005 about what had happened. (T. Vol. 1 pp.174-175) She was shown State's Exhibit 6, a grocery receipt with writing on it which she advised someone probably wrote for her since it was not her writing but was her signature. Despite the fact that she could not remember what had actually occurred even after being shown the documents, the documents were allowed in over the Defendants objection. (T.Vol.1 pp. 177-178) The Court sustained the Defendant's objection but did not give a curative instruction. (T. Vol. 1 pp 178-179) On cross Mrs. Isenhour acknowledged that she had no present recollection of June 10, 2005. (T. Vol. 1 p. 181)

The State called Natalie Green Cook who was employed by the Avery County Sheriff's Department as an investigator. On June 10, 2005 and was assigned to assist in the investigation of the death of Sam Roberson. She prepared State's Exhibit 5 a typed version of the interview with Mrs. Isenhouer prior to the trial. The original notes were never provided to the Defendant's counsel. She did not type the statements word for word that State's Exhibit 6 was totally in the investigators hand writing, that it did not contain any mention

of any mark on the side of the deceased's head and that was the only document that she ever had Mrs. Isenhour sign. She acknowledged that she knew if the District Attorney did not have the notes that they could not be given to defense counsel. (T. Vol. 1 pp.207-215)

The State called Charlie Banner, a first responder for the Newland Volunteer Fire Department, who on June 9, 2005 responded to a call at Brewer Road he referred to as a code 44 or a dead on arrival code. (T. Vol. 1 pp 220-221) He saw the deceased's body lying on the porch when he approached the porch and saw the Defendant. The deceased was bluish grey with blood all over him, had injuries to the head and blood coming out of his ear. (T. Vol. 1 pp. 222-244) That the Defendant told him she went to bed about 7:00pm and when she woke up the deceased was not in his mom's bed, so she checked for him but did not see him until she went back out found him on the porch and thereafter she called 911. (T. Vol. 1 p. 230) He prepared a statement which was marked as State's exhibit 8. He acknowledged his statement made no notation about how the body was laying or any observations he made about any injuries. The witness acknowledge that although he testified that he had not spoken with any officers he had in fact met with an SBI agent in July. (T. Vol. 1 p. 237) He admitted his testimony about the report being in his own hand writing was not the truth. (T. Vol. pp. 238-239) He acknowledged he did not remember much and could not explain why he had given testimony that was not the truth. (T. Vol. 1 pp. 238-239) He acknowledged that he did not write the report rather; a friend, Joe Maroney, wrote it for him. When asked by the defense Counsel "is there anything you told me that was the truth the first time?" The witness responded "just a little bit of it, Sir." (T. Vol. pp. 240-241)

The State called Mitch Banner, a volunteer with the Linville Fire Department who responded to the call at West Brewer Road at



approximately 6:45am. He had known the deceased was since childhood. When he pulled into the front yard of the mobile home he saw a white male lying on the porch directly in front of the front door. (T. Vol. 1 pp. 244-245) He checked the deceased for vital signs found none, the skin was a real mottled bluish grey color and his pupils were fixed. (T. Vol. 1 p. 246) He observed rigor in the right arm of the deceased. (T. Vol. 1 pp. 246-248) He has known Gloria Estes since childhood and spoke with both the Defendant and Jojo Estes at the scene. The Defendant advised him that she had taken some medication that knocked her out and when she woke up she found the deceased. He testified that Jojo Estes told him that his mother had called and said that something had happened to Sam and he to come over. (T. Vol. 1 p. 249) He examined State's exhibit 4 and testified it fairly and accurately portrayed how the deceased appeared when he saw him. (T. Vol. 1 p. 250) He knew Gloria had been in Broughton several times and that there were rumors she had a bipolar disorder and alcohol problems as did the deceased. (T. Vol. 2 p.257)

The State called Jason Brown from the Newland Police Department, who responded at approximately 7:00am. When he arrived at the scene he noticed a body lying on the porch with four people around the body. When he walked up on the porch he noticed a green mat under the victim's feet, noticed the color of the victim and determined the individual had been deceased for a while. (T. Vol. 2 pp.263-264) On cross the witness testified that he was the agent in charge of the scene and that his most important duty after checking to see if assistance could be rendered to the victim was to preserve the crime scene. (T. Vol.2 pp.278-279) He did not put tape up at the crime scene, did not put on rubber gloves or take pictures of scene before anybody touched anything. (T. Vol. 2 p.281) He knew the Defendant and knew that she had been treated for mental problems.

The State called Jody Coffey, of the Avery County Sheriff's Department who arrived at 7:00am. He spoke with the Defendant who kept going around in circles with her statement, she said the same thing over and over and told him that she had gone to bed at approximately 10 o'clock, that she woke up and saw the blood trail leading through the trailer and that she found Sammy (the deceased) outside on the porch. He observed blood on her left ankle and bruising on her right hand. (T. Vol.2 pp.296-297) On cross he testified the Defendant kept repeating herself she told him that she was up with the deceased until about 10 and that he was still drinking mouthwash when she went to bed. He advised that he had not included the statements concerning the mouthwash or that the Defendant had taken her medication and was going to bed all of which were in his report. He testified that the Defendant told him that when she got up the next morning she found a trail of blood that led through the trailer onto the front porch where she found the deceased unconscious and that she tried wake him up and when she got no response she called her son for help and then called 911. (T. Vol.2 pp.297-298)

The State called Joseph Estes, Jr. son of the Defendant, who testified that during 2005 he was at the home of the deceased at least once a week to visit his mother and the deceased. (T. Vol.2 pp.301-302) On the morning of June 9, 2005 he received a call at approximately 6:19 am from his mother, who was very upset and told him that she believed Sam could be dead. He testified that while speaking with her on the phone she walked out on the porch calling Sam's name and telling him to wake up and at that time told her that the deceased was not responding. (T. Vol.2 pp.303-304) When he arrived he saw a body on the porch, the front door was open and his mother was on the phone with 911. The deceased was lying face up, he felt

the neck and determined Sam was dead. He spoke with his mother who was obviously upset and bewildered and looked shocked. She just did not have it together. (T. Vol 2 p. 308) On the prior evening between 5:45, 6 pm he had spoken with his mother and in the background heard the deceased. (T. Vol 2 pp. 309-310) He prepared a statement marked State's exhibit 22 is his handwriting. He testified his mother had emotional and mental problems for a long time. That she had had periods of blackouts and times when she doesn't remember things. He testified she had been on heavy duty medication and that one of the medications that she generally takes at night knocks her out. She taking lithium and six or seven other medications and had been under the continuing of a physician at New River Health. She had been involuntarily committed to Broughton, the State Mental Hospital, on more than one occasions. (T. Vol. 2 pp. 320-322) His mother and the deceased had serious problems with alcohol and that their drink of choice was Listerine. He knew the deceased had seizure problems and had in fact witness one such attack where the deceased had fallen on the floor on May 4, 2005 and was later admitted to the hospital. He had heard about the deceased falling several days before this incident in the creek when lost one of his bottles of Listerine and that it was not unusual to see the deceased with bruises or scraps where he had fallen when he was drunk. (T. Vol 2 pp. 323-324)

The State called Mark Sharpe a Special Agent for the North Carolina Bureau of Investigation. Prior to Sharpe's testimony a lengthy voir dire was conducted in which Defendant's counsel argued statements made by the Defendant to agent Sharpe should be suppressed. The Court denied the Motion to Suppress and allowed statements of the Defendant to be presented to the jury. (T. Vol. 2 pp. 339-376) Agent Sharpe responded to the scene at approximately 9:00am and upon arriving was met by chief investigator Danny Phillips who briefed

him on the situation and introduced him to the Defendant who was in a back room of the Sheriff's Department, He began a conversation with the Defendant and told her that he had been contacted to participate in a death investigation and wanted to speak with her to determine what had occurred the night before at the deceased's home. He suggested they leave the Sheriff's office and go to a more private location where they could speak. Natalee Greene an investigator with the Avery County Sheriff's Department transported the two of them to Newland Town Hall where they met in the Newland board room and began a conversation. He testified that he told to the Defendant that she was not under arrest and was free to leave at any time and then asked her if she would talk with him about what had occurred and she advised that she was willing to talk with him. (T. Vol. 2 pp. 378-379) Stated the Defendant told him that she was starting to remember some things and that she remembered that Sammy had been drinking. She advised him that Sammy had a bad temper and was real mean. She remembered that Sammy had called her names and got in her face before jumping on her and that he had injured her arm when he jumped on her Saturday and that she had hit him in the face. She stated that the deceased had jumped on her before. (T. Vol.2 pp.379-380) He spoke with the Defendant he observed physical injuries on the Defendant including a swollen wrist and hand with some bruising, some swelling and bruising around one of her feet and a small bruise underneath one of her arms. The Defendant told him she was not sure what had happened the night before. She advised that she had talked to her son, Joseph Estes, Jr. at approximately 6:00pm the night before, that her son owed her some money and she was trying to get some money to get her own place. She said that she and the deceased drank heavily every day. She had been staying at the deceased's place for several weeks because her car had been